

REMARKS

The undersigned acknowledges the courtesies extended by the Examiner during teleconferences on May 20, 2005, and May 31, 2005, regarding the subject patent application.

By teleconference of May 31, a provisional election was made to continue prosecution of the Group I claims, claims 1, 4-7, 9-10, 15-19, and 22-30. The undersigned affirms this election, and the non-elected claims, claims 11-14, have been cancelled.

In light of the restriction requirement, the Applicant requests reconsideration of the finality of the rejection of the claims in light of 37 C.F.R. 1.142, which states that a restriction requirement is normally made before any action on the merits but that, however, a restriction requirement may be made at any time before final action.

In the office action, all of the elected claims, claims 1, 4-7, 9-10, 15-19, and 22-30, were rejected. Claims 19 and 22 were rejected under Section 101 for being directed toward non-statutory subject matter for lacking utility. Claims 4-7, 24-26, and 28 were rejected under Section 112, second paragraph, variously for reciting terms that lack antecedent basis and for reciting claim language that is indefinite. Claims 29-30 were rejected under Section 103(a) over the combination of *Notenboom* and *Borissov*. And, claims 1, 4-7, 10, 15-19, 22-26, and 28 were rejected under Section 103(a) over the combination of *Notenboom*, *Borissov*, and *Mukaida*.

Responsive to the rejections of the claims, and responsive to the teleconferences with the Examiner, the claims have been amended, as set forth herein, in manners believed to overcome the various rejections set forth in the office action.

With respect to the rejection of claims 19 and 22 under Section 101, claim 22 has been canceled, and claim 19 has been amended, now to recite computer-readable code embodied in a storage medium executable by a computer. And, with respect to the Section 112, second paragraph rejections, claims 4 and 28 have been amended to recite that the resource, or resource manager, requests a decision as to how to allocate itself to the second application. And, while claims 24-26 are not amended, amendment is made to their parent claim 15 that provides antecedent basis to the recitation of the decision in claims 24-26.

With respect to the substantive rejections, independent claims 1, 15, 19, 28, and 29 have been amended in manners believed to distinguish the recited invention over the cited combinations used against the claims.

With respect to exemplary claim 1, the claim has been amended now to recite that, in the event that the computer resource does not have the authority to allocate itself to the second application, the computer resource requests a decision as to how to be allocated. Claims 15, 19, 28, and 29 have been analogously amended. To the extent that the Examiner asserts that a combination of the references can be formed to create the invention, as now recited, such assertion is respectfully traversed.

The Examiner acknowledged that *Notenboom* fails to disclose a method comprising permitting one of a plurality of resources to allocate itself to a second application if it has the authority to do so, without requesting permission to allocate itself from the resource manager. And, the Examiner further acknowledges that *Notenboom* also fails to disclose that one of a plurality of resources requests an allocation decision only if it does not have the authority. While the Examiner relies on *Borissov* for teaching self-allocation of resources, the cited paragraphs 20 and 114, as well as others, of the disclosure do not disclose a computer resource requesting a decision as to how to be allocated in the event that the computer resource does not have the authority to allocate itself to the second application. *Mukaida* also fails to disclose such operation or structure and was relied upon by the Examiner merely for teaching allocating resources needed by a requestor.

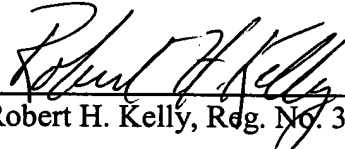
Accordingly, the independent claims, as now-amended, are believed to be distinguishable over the cited references, taken in any combination. As the remaining dependent claims include all the limitations of their respective parent claims, these claims are believed to be distinguishable for the same reasons as those given with respect to their parent claims. Accordingly, reexamination and reconsideration for allowance of the claims is respectfully requested. In the alternative, entry of the proposed amendments is respectfully requested. Such amendments were not earlier presented for the reason that new grounds for rejection were set forth in the latest office action as was, additionally, the restriction requirement, requiring election of claims for continued prosecution.

Application No. 09/882,459
Amendment dated September 14, 2005
Response to OA of June 6, 2005

Respectfully submitted,

Dated: 14 Sep 05

SCHEEF & STONE, L.L.P.
5956 Sherry Lane, Suite 1400
Dallas, Texas 75225
Telephone: (214) 706-4201
Fax: (214) 706-4242
robert.kelly@scheefandstone.com


Robert H. Kelly, Reg. No. 33,922